



CITY OF NEWTON, MASSACHUSETTS

CONSERVATION COMMISSION

CONSERVATION COMMISSION

MEETING MINUTES

April 28, 2011

Beginning at 7:30 p.m.

City Hall, Room 209

Meeting called to order at 7:38 p.m.

Setti D. Warren
Mayor

MEMBERS PRESENT: S. Lunin (Vice-chair and Acting Chair), J. Hepburn, D. Green, N. Richardson, R. Matthews (arrived late) and J. Sender (Alternate)

MEMBERS ABSENT: I. Wallach, (Chair), D. Dickson

MEMBERS OF THE PUBLIC: See attached sign-in sheet

Candace Havens
Director
Planning & Development
Department

Anne Phelps
Sr. Environmental Planner

Commissioners

Ira Wallach, Chair
Susan Lunin, Vice Chair
Judy Hepburn, Secretary
Norm Richardson
Roger Matthews
Dan Green
Doug Dickson
Jane Sender, Alternate

DPW Annual Roadwork RDA-Work in riverfront, floodzone, and buffer zone

Report: There is an exemption under 10.58(6)(a) Maintenance of roads in riverfront (if not in other resource areas) - applies only to those portions of road work that are not also in buffer zones of other resource areas – i.e., should be outside 100 ft buffer to bank of river). Oak St. and Boulder Rd. have now been removed from the list of roads to be re-paved, leaving work on California St. (outer 200-ft riverfront of Charles R.), Centre St. (riverfront area to Hammond Brook & buffer to bank), Farina St. (outer 200 ft riverfront of So. Meadow Brook, small section of Homer St. in 100 ft buffer to bank. Work is re-paving, installing sidewalks, curb maintenance and installation. One site may block off existing concrete swales and install catch basin (an improvement). Recommend negative determination #2 AND #3 with following condition: 1) at Homer St., install silt sacs in CBs & silt fence or filter sox at stream crossing if sidewalk work done; 2) all other work should also install silt sacs in CBs near wetlands, 4) consult w/Env. Planner prior to any work on culverts or any creation/alteration/repair of drainage swales.

Meeting: John Daghljan presented for DPW. He said there were six (6) streets to be re-paved, but they eliminated Oak St. and Boulder Rd. With removal of these two roads, there is no longer any work proposed on drainage structures. **Motion by D. Green to issue negative determination #2 & #3 with 4 conditions noted above. Second by J. Hepburn. Vote: All approved. Motion passed.**

Quinobequin Rd. NOI- Path and retaining walls in riverfront, flood zone and buffer zone

Report: The plan submitted is for a ~3-mile stretch of riverfront area (although some work may not be in riverfront at all) from Rte. 9 (just north of Hemlock Gorge & right circular dam) to Rte.16 (Washington St. near Riverside). Application is for a 'limited project' (see 10.53(3) – generally invoked when the applicant does not believe the project meets the requirements of the Act, and which allows that a commission has discretion to approve, considering a) the magnitude of the alteration, b) the availability of reasonable alternatives, c) extent to which adverse impacts are minimized, and d) the extent to which mitigation measures, including replication or restoration, are provided. 1) Wetland delineation~ (provided late) for various areas of work. GIS maps indicate all work is in flood zone and riverfront except retaining wall and series of steps and a bridge (1). Do not yet know if "drainage crossings" are over jurisdictional streams or not. 2) Proposed improvements include construction of wooden boxed steps (filled with gravel), grading (mostly fill), retaining wall(s), and wooden 'drop in place' bridges. 3) Vegetation is proposed to be cut (including blackberry species and greenbriar, *Smilax rotundifolia*, *S. glauca*, etc.), both of which are natives, but no trees will be cut, except fallen trunks or limbs blocking the proposed path. Rosa spp also to be cut, but no

1000 Commonwealth Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1134

answer as to whether it is native. 4) Pictures included in application suggest the 'user foot path' is very narrow, so this proposal would widen it to ~4 ft plus extra for any side timbers, 5) There is no stockpile area shown, and I have requested that information. DCR claims it is "improving" the ability of the resource area (and refers to 10.53(4)), but do not see how it improves wildlife habitat. Paths (un-approved, but especially 'approved' paths, often create erosion, cause destruction of vegetation, provide a 'highway' for invasive vegetation, deter wildlife, and generally do not improve the ability to protect the interests under the Act (but see the DCR justification and offer to put up bird boxes). A site walk is scheduled for April 26th. NOTE: The filing fee paid is for category 1. Planner believes that Category 2j. or 3a. is the correct fee category (pertinent regulations in packet)- and believes applicant owes additional filing fee, but applicant does not agree and wants commission to decide (regulations in packet).

Meeting: Kevin Hollenbeck and Alexandra Echandi, both from Department of Conservation and Recreation (MA DCR) were present to describe the project. Following the site walk, the project has been modified. The "trail" will be moved upgradient to get it out of bordering vegetated wetland. The widened path will end at York Street, since bordering vegetated wetlands come very near the road in a couple of spots beyond this point. Proposed structures are no longer included, but a small fence is proposed close to Rte 9, and near Quinobequin Rd. and over a culvert for safety. Native shrubs will be removed from the path and planted in the bordering vegetated wetland areas or adjacent to them to try to deter foot traffic through these sensitive areas, and DCR will add additional plantings of native plants working in concert with Sr. Planner, as well as some bird boxes, to improve habitat. All work to be done by hand. DEP comments were read into the minutes. The commission agreed to accept the fee submitted, because, with proposed changes, the project may improve the resource area(s)' ability to protect the interests under the Act. DEP issues should be resolved with the change in project scope. This should be an overall improvement for wildlife habitat. **Motion by D. Green to issue an Order of Conditions with special condition of supplemental plantings in trail parts being closed. Second by N. Richardson. Vote: All approved. Motion passed.**

483 Dedham St. Charles River Country Club NOI cont. –Work in riverfront, buffer zone and bordering vegetated wetland.

Report: A new site visit was conducted with engineering. Planner accepts proposed route for heavy equipment, with condition that pathway be aerated after work is completed. Still think need mixed shrub planting, but proposed planting OK so long as on-going condition for mitigation area. Applicant has provided **no** new information to resolve/close three outstanding OOCs.

Meeting: Applicant contacted Sr. Environmental Planner to request continuance to the May 26th meeting.

MBTA Right of Way (through Webster conservation area) RDA-Vegetation Management Plan in bordering vegetated wetland, flood zone and riverfront.

Report: Applicant is still trying to arrange a site walk with the MBTA along track in Webster Park (east & west) and near Crystal Lake. They are exempt from the WPA (10.03(6)(b), 10.05(3)(a)(2), 10.58(6)(a)), so long as their wetlands delineation is approved by the commission. Recommend ask applicant to continue for site walk. Provided site walk confirms delineation, recommend a determination of Negative #5 with above exemptions.

Meeting: Kyle Fair, TEC Associates was present for the MBTA. MBTA does not want anyone on the track unless s/he takes a 4-hr safety class first. MBTAs Vegetation Management Plan has been approved. Glyphosphate (a Round-up derivative) is used in sensitive areas, and thus in most of Newton (so they don't have to stop and change chemicals half-way through the city). The commission asked the applicant to continue for results of a site visit by the Env. Planner. Applicant agreed to continue to the May 26th meeting.

Nahanton Woods RDA-Work in buffer zone to bordering vegetated wetland and to bank.

Report: All proposed work is in buffer zone to bank and to bordering vegetated wetland. However, **I think this should be a NOI (see 10.02(2)(b)).** Some of work is very close to stream & BVW and mowed grass sides slope to wetland & stream. Work goes beyond maintenance. It involves completely removing old pavement, re-grading road bed, and installation of drainage swales directed off road toward adjacent bordering vegetated wetland. Driveway goes over 2 culverts, one for stream through adjacent (CRCC) golf course. I think alternatives should be considered for drainage swales (not mentioned in RDA, but on plan). 1) Plan submitted is not scaled, and no detail drawing for swales so cannot tell how close work is to wetland or where end of swales will be, 2) Project should be subject to the storm water regulations for re-development – no discussion of this at all on application, 3) The wetland delineation is approximate, and no alternate path has been designated for driving equipment around site. 4) Conditions should include: a) Erosion and sediment control line (entrenched, back-filled silt fence) is the limit of work – should be no more than 10 ft off roadway (still very close to the wetland in places) , b) no stock-piling of



CITY OF NEWTON, MASSACHUSETTS

CONSERVATION COMMISSION

equipment or materials within 50 ft of the bordering vegetated wetland, and must be surrounded by entrenched and back-filled silt fence (no use of hay bales), c) no stock-piling of fuel and no re-fueling within the buffer zone, d) erosion and sediment control over culvert (s) should be filter sox of at least 9" diameter, e) any damage to culvert(s) should result in applicant immediately notifying commission/Env. Planner. Applicant originally told me he was just re-paving and I advised RDA. This goes far beyond re-paving roadway.

Meeting: Paul Martin, Noblin Associates, L. C., was present to describe the project. New material was submitted that the Env. Planner and the commission had not had time to review. Applicant said asphalt has been there for 25 yrs., and there will be no changes to bridges and culverts, but roadway will be 1-2" higher, but in same footprint. One of culverts is passage for perennial stream from CRCC, so some work in 200 ft riverfront – essentially, lots of wetlands and too little detail in application. Applicant requests continuance to the May 26th meeting.

37 Oakland Av. Abbreviated NOI-Addition and patio in riverfront

Report: Site visit with contractor. Yard is flat, with fence and DCR strip of property between work and river. No basement under addition, only walled foundation, so not a huge amount of excavation, and almost no chance of excavated material getting into river. Applicant claims existing deck is impervious, but it is a wooden box, badly **destruction of vegetation, provide a 'highway' for invasive vegetation, deter wildlife, and generally do not improve the ability to protect the interests under the Act (but see the DCR justification and offer to put up bird boxes).**

Meeting: Michael O'Brien, contractor, and owner, Jim O'Connell, were present to describe the project. It is a small project with a small increase in impermeable surface. **Motion by R. Matthews to issue OOC with special condition of 2 native Viburnums to be planted in back yard as mitigation. Second by D. Green. Vote: All in favor. Motion passed.**

Violations(new and updates):

75-85-95 Wells Av. Violation-Improper snow disposal

Report: Received complaint of violation and called management company (Normandy Realty). Site visit found large deposits of sand all around periphery of parking lot on edge of and in culvert outflow channels and in BVW. Notice of Violation issued and met with owners to walk site. Owners have been very cooperative in cleaning up and removing sand (using hand tools), cleaning out catch basins, and will submit O&M plan for future snow removal.

Meeting: No action taken.

193 Oak St. Village Condos EO – O&M plan to be approved

Report: Draft O&M plan submitted and is being revised incorporating my comments.

Meeting: No action taken.

25-27 Christina St. EO – O&M plan to be approved

Report: Plan submitted by email has been reviewed and seems consistent with prior OOC and Determination issued. Prior OOC required annual maintenance of CBs and examination of roof drains and outfalls.

Meeting: Environmental Planner to use discretion to finalize.

320-322 Needham St. EO – O&M plan & bank restoration plan to be approved

Report: Comments on snow storage and restoration sent to legal representative, but have heard nothing back. Prior OOC required annual maintenance of CBs and examination of roof drains and outfalls and I asked for information on this by end of this month.

Meeting: Environmental Planner reported that memo sent summarizing conservation comments and answer was due the end of April. I. Wallach reported that attorney for Bullfinch had been in touch with him to say he would respond in writing.

Certificates of Compliance:

1203 & 1211 Washington St.-As-built plan and letter received (also asks to lift EO)- All conditions met.

Meeting: Motion by R. Matthews to issue COC and lift EO. Second by D. Green. Vote: All in favor. Motion passed.

365-381 Elliot St.-Order not recorded – Recommend issue COC anyway to close record

Meeting: Motion by D. Green to issue COC. Second by R. Matthews. Vote: All in favor. Motion passed.

77 Florence St. – As-built and letter received- Not ready

77 Florence St.- Received as-built plan & letter from engineer that work in compliance- Not ready

100 Boulder Rd.– Hay bales not removed from flood zone-Not ready*

36 Hyde Av. – Site visit scheduled for April 25th-will report at meeting.

Meeting: Environmental Planner reported it is not ready.

76 Hyde Av. – Continue-not ready

Discussion:

Norumbega Park conservation area- Deed and Board Order for purchase

Meeting: The Board Order to approve use of funds to pay for taking of Norumbega through eminent domain specified the property was to be used for “conservation and passive recreation.” There was some discussion of whether “passive recreation” ruled out off-leash dog activities. Alderman Susan Albright spoke from the audience to request the conservation commission should listen to the off-leash dog proponents and request a presentation from Bob DeRubeis, Commissioner of Parks and Recreation. Environmental Planner will follow up on that.

170 Suffolk Rd. – Encroachment into Houghton Garden

Meeting: Owner Ken Lyons present, and he submitted a new letter he found from the Law Department. Dr. Hill, the former owner, was also present. Dr. Hill said he worked with Helen Heyn to acquire Houghton Garden for the city, and at that time the fence already encroached onto the abutting property. I. Wallach had asked for reason to allow the encroachment. Mr. Hill said that people walking through the Houghton Garden area were trespassing onto his property, and he thinks the conservation commission was grateful he erected the fence, since it kept him from complaining about trespassers. The question by the commission, is whether the acknowledgement of the encroachment has to be an allowance in perpetuity. Consensus is that if something changes, the city can exert its right to revisit this encroachment.

Proposed change in number of plans requested for filing – Norm

Meeting: Following discussion, Env. Planner said she will try to get additional plans, and commissioners can come to city hall to view the plans available for public review.

Announcements & General Business:

March 24th, 2011 Meeting Minutes for approval

Meeting: Motion by D. Green to accept minutes. Second by R. Matthews. Vote: All in favor. Motion passed.

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner